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09/770,960	01/26/2001	Jo Ann H. Squier	10247	7021

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EXAMINER

SIMONE, CATHERINE A

ART UNIT

PAPER NUMBER

1772

DATE MAILED: 08/04/2003

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Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)
	09/770,960	SQUIER ET AL.
	Examiner Catherine Simone	Art Unit 1772

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1) Responsive to communication(s) filed on 15 July 2003.
 2a) This action is FINAL. 2b) This action is non-final.
 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4) Claim(s) 1-26 is/are pending in the application.
 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
 5) Claim(s) _____ is/are allowed.
 6) Claim(s) 1-26 is/are rejected.
 7) Claim(s) _____ is/are objected to.
 8) Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9) The specification is objected to by the Examiner.
 10) The drawing(s) filed on _____ is/are: a) accepted or b) objected to by the Examiner.
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
 11) The proposed drawing correction filed on _____ is: a) approved b) disapproved by the Examiner.
 If approved, corrected drawings are required in reply to this Office action.
 12) The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

13) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 a) All b) Some * c) None of:
 1. Certified copies of the priority documents have been received.
 2. Certified copies of the priority documents have been received in Application No. _____.
 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
 * See the attached detailed Office action for a list of the certified copies not received.
 14) Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
 a) The translation of the foreign language provisional application has been received.
 15) Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

1) Notice of References Cited (PTO-892)
 2) Notice of Draftsperson's Patent Drawing Review (PTO-948)
 3) Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____.

4) Interview Summary (PTO-413) Paper No(s) _____.
 5) Notice of Informal Patent Application (PTO-152)
 6) Other: _____

DETAILED ACTION

Withdraw of Finality

1. Applicant's request for reconsideration of the finality of the rejection of the last Office action is persuasive and, therefore, the finality of that action is withdrawn.

Withdrawn Rejections

2. The 35 U.S.C. 103 rejection of claims 1-8 and 10-26 over Balaji et al. in view of Bright has been withdrawn due to the Applicant's request for reconsideration in Paper #13.

3. The 35 U.S.C. 103 rejection of claim 9 over Balaji et al. in view of Bright and in view of Katsura et al. has been withdrawn due to the Applicant's request for reconsideration in Paper #13.

Claim Rejections - 35 USC § 102

4. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

5. **Claims 1-4, 7, 10-13, 16, 20, 22, 23 and 24** are rejected under 35 U.S.C. 102(b) as being anticipated by Liu et al. (4,931,327).

Regarding **claims 1 and 24**, Liu et al. discloses a thermoplastic label for use with a cold glue adhesive, comprising a first skin layer (Fig. 1, b) comprising a thermoplastic and

first cavitating agent (see col. 4, line 27), wherein the first skin layer has a first side and a second side, and the first skin layer is cavitated; and a cold glue (Fig. 1, #2) on the first side of the skin layer (see col. 2, lines 64-66). Regarding **claim 2**, the thermoplastic is polypropylene (see col. 4, lines 40-44) and wherein the first skin layer has a thickness of at least about 0.3 mil (see col. 5, lines 16-19). Regarding **claim 3**, note the thermoplastic is polyethylene (see col. 4, lines 40-44). Regarding **claim 4**, note a core layer comprising polypropylene (see col. 4, lines 40-44) and a second cavitating agent (see col. 4, lines 62-63) wherein the core layer (Fig. 1, a) has a first side and a second side and the first side of the core layer is adjacent to the second side of the first skin layer (Fig. 1, b). Regarding **claim 7**, note a second skin layer (Fig. 1, c) comprising polypropylene (see col. 6, lines 27-32) having a first side and a second side wherein the first side of the second skin layer is adjacent to the second side of the core layer (Fig. 1, a). Regarding **claim 10**, the core layer is cavitated (see col. 4, line 29). Regarding **claim 11**, note the thermoplastic skin layer comprises at least 15% by weight of the thermoplastic label (see col. 5, lines 28-31). Regarding **claims 12 and 13**, note the first cavitating agent comprises calcium carbonate (see col. 5, line 26). Regarding **claim 16**, the label is biaxially oriented (see col. 6, lines 34-35). Regarding **claim 20**, the thermoplastic is polypropylene and the polypropylene comprises homopolymer polypropylene (see col. 4, lines 40-45). Regarding **claims 22 and 23**, note the second cavitating agent is polybutylene terephthalate (see col. 4, lines 62-63).

Claim Rejections - 35 USC § 103

6. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

7. **Claims 5, 6, and 8** are rejected under 35 U.S.C. 103(a) as being unpatentable over Liu et al. (4,931,327) in view of DeLisio et al. (6,458,469).

Liu et al. discloses a thermoplastic label for use with a cold glue adhesive, comprising a first skin layer (Fig. 1, b) comprising a thermoplastic and first cavitating agent (see col. 4, line 27), wherein the first skin layer has a first side and a second side, and the first skin layer is cavitated; and a cold glue (Fig. 1, #2) on the first side of the skin layer (see col. 2, lines 64-66). However, Liu et al. fails to disclose a tie layer comprising polypropylene with a thickness of at least about 0.3 mil. DeLisio et al. teaches that it is old and well-known in the analogous art to have a tie layer comprising polypropylene (see col. 2, lines 63-66) with a thickness of at least about 0.3 mil for the purpose of producing a biaxially oriented polymeric packaging film.

Therefore, it would have been obvious to one of ordinary skill in the art at the time the applicant's invention was made to have provided the film in Liu et al. with a tie layer comprising polypropylene with a thickness of at least about 0.3 mil as suggested by DeLisio et al. in order to produce a biaxially oriented polymeric packaging film.

Regarding **claim 8**, note in Liu et al. a second skin layer (Fig. 1, c) comprising polypropylene (see col. 6, lines 27-32) having a first side and a second side wherein the first side of the second skin layer is adjacent to the second side of the core layer (Fig. 1, a).

8. **Claim 9** is rejected under 35 U.S.C. 103(a) as being unpatentable over Liu et al. (4,931,327) in view of DeLisio et al. (6,458,469) and in view of Touhsaent (6,013,353).

Liu et al. discloses a thermoplastic label for use with a cold glue adhesive, comprising a first skin layer (Fig. 1, b) comprising a thermoplastic and first cavitating agent (see col. 4, line 27), wherein the first skin layer has a first side and a second side, and the first skin layer is cavitated; and a cold glue (Fig. 1, #2) on the first side of the skin layer (see col. 2, lines 64-66). However, Liu et al. fails to disclose a tie layer comprising polypropylene with a thickness of at least about 0.3 mil. DeLisio et al. teaches that it is old and well-known in the analogous art to have a tie layer comprising polypropylene (see col. 2, lines 63-66) with a thickness of at least about 0.3 mil for the purpose of producing a biaxially oriented polymeric packaging film.

Therefore, it would have been obvious to one of ordinary skill in the art at the time the applicant's invention was made to have provided the film in Liu et al. with a tie layer comprising polypropylene with a thickness of at least about 0.3 mil as suggested by DeLisio et al. in order to produce a biaxially oriented polymeric packaging film.

Furthermore, both Liu et al. and DeLisio et al. fail to disclose a metal layer. Touhsaent teaches it is old and well-known in the analogous art to have a metal layer for the purpose of producing a packaging film.

Therefore, it would have been obvious to one of ordinary skill in the art at the time the applicant's invention was made to have provided the film in Liu et al. with a metal layer as suggested by Touhsaent in order to produce a packaging film.

9. **Claims 14, 15, 17-19 and 21** are rejected under 35 U.S.C. 103(a) as being unpatentable over Liu et al. (4,931,327).

Liu et al. discloses a thermoplastic label for use with a cold glue adhesive, comprising a first skin layer (Fig. 1, b) comprising a thermoplastic and first cavitating agent (see col. 4, line 27), wherein the first skin layer has a first side and a second side, and the first skin layer is cavitated; and a cold glue (Fig. 1, #2) on the first side of the skin layer (see col. 2, lines 64-66). However, Liu et al. fails to disclose the label having a thickness from about 3 mils to 5 mils and from about 1 mil to about 10 mils; and the first cavitating agent comprising at least about 25%, 35% and 50% by weight of the first skin layer. The thickness of the label and weight percent of the first cavitating agent would be readily determined through routine experimentation by one having ordinary skill in the art depending on the desired end results.

Therefore, it would have been obvious to one of ordinary skill in the art at the time the applicant's invention was made to have the thermoplastic label in Liu et al. have a thickness from about 3 mils to about 5 mils and from about 1 mil to about 10 mils and to have the first cavitating agent in Liu et al. comprise at least about 25%, 35% and 50% by weight of the first skin layer, since it has been held that where the general conditions of a claim are disclosed in the prior art, discovering the optimum or workable ranges involves only routine

skill in the art absence of showing unexpected results. *In re Boesch and Slaney*, 205 USPQ 215 (CCPA 1980).

10. **Claims 25 and 26** are rejected under 35 U.S.C. 103(a) as being unpatentable over Bright (5,897,722) in view of Poirier (5,194,324).

Bright discloses a container having a thermoplastic label (Fig. 6, #20) comprising a surface of the container; a cold glue adjacent to the surface (col. 4, lines 39-41) and a polypropylene label (see col. 4, lines 23-28). However, Bright fails to disclose the label comprising a first skin layer comprising polypropylene and a first cavitating agent and a core layer comprising polypropylene and a second cavitating agent having a first side and a second side wherein the first side of the core layer is adjacent to the second side of the first skin layer. Poirier teaches that it is old and well-known in the analogous art to have a label comprising a first skin layer comprising polypropylene and a first cavitating agent (see col. 2, lines 59-60) and a core layer comprising polypropylene and a second cavitating agent (see col. 2, lines 13-15) having a first side and a second side wherein the first side of the core layer is adjacent to the second side of the first skin layer (see col. 2, lines 59-60) for the purpose of producing a polymer film structures employed as adhesively applied labels.

Therefore, it would have been obvious to one of ordinary skill in the art at the time the applicant's invention was made to have the label in Bright comprise a first skin layer comprising polypropylene and a first cavitating agent and a core layer comprising polypropylene and a second cavitating agent having a first side and a second side wherein the

first side of the core layer is adjacent to the second side of the first skin layer as suggested by Poirier in order to produce polymer film structures employed as adhesively applied labels.

Response to Arguments

11. Applicant's arguments with respect to claims 1-26 have been considered but are moot in view of the new ground(s) of rejection.

Conclusion

12. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Catherine Simone whose telephone number is (703) 605-4297. The examiner can normally be reached on 9:30-6:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Harold Pyon can be reached on (703) 308-4251. The fax phone numbers for the organization where this application or proceeding is assigned are (703) 872-9310 for regular communications and (703) 872-9311 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-0661.

C/S
Catherine Simone
Examiner
Art Unit 1772

July 25, 2003

N. Ahmad
NASSER AHMAD
PRIMARY EXAMINER
Acting SPE